

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEALS OF WILSON ) APPEAL NOS. 07-A-2029 and  
PROPERTIES I, LLC. from the decision of the Board ) 07-A-2030  
of Equalization of Shoshone County for tax year ) FINAL DECISION  
2007. ) AND ORDER

**COMMERCIAL PROPERTY APPEALS**

THESE MATTERS came on for consolidated hearing September 25, 2007, in Wallace, Idaho before Hearing Officer Steven Wallace. Board Members Lyle R. Cobbs , David E. Kinghorn and Linda S. Pike participated in this decision. Director Phil Wilson appeared for Appellant Wilson Properties I, LLC. Assessor Jerry White and Appraiser Greg Saylor appeared for Respondent Shoshone County. These appeals are taken from value decisions of the Shoshone County Board of Equalization denying the protests of the valuation for taxing purposes of property described as Parcel Nos. RPD09750010010A and RPD09750010020A.

**The issues on appeal is the market values of two commercial properties.**

**The value decisions of the Shoshone County Board of Equalization are modified regarding each parcel.**

FINDINGS OF FACT

The two subject properties are adjacent to one another and comprise a coordinated commercial use. Appellant purchased the two properties in July 2004 for \$750,000. Appellant was a tenant in the building with an existing manufacturing business at the time of sale. Consequently it was contended Appellant paid more than fair market value. The overpayment is argued to mostly offset any time-adjustment to update the older sale price.

Parcel No. RPD09750010010A

The assessed land value is \$681,400, and the improvements' valuation is \$225,170, totaling \$906,570. Appellant requests the land value be reduced to \$525,000, and the

improvements' value be reduced to \$225,000, totaling \$750,000.

This 2.249 acre parcel is improved with a 20,000 square foot steel building, built in 1965.

Parcel No. RPD097500100200A

The assessed land value is \$63,600, and the improvements' valuation is \$5,490, totaling \$69,090. Appellant requests the land value be reduced to \$49,000, and the improvements' value be reduced to \$3,000, totaling \$52,000.

This parcel is improved with about 1,575 square feet of asphalt paving.

Appellant reported that apart from its manufacturing use, which occupies about 4,000 square feet of the building, the main property use and demand is for warehouse space. The balance of subject is leased as warehouse. The higher-valued manufacturing use is far reduced from the time of subjects' sale in 2004.

It was argued the County's sales underlying the trend rates applied during the last two years are not representative of the subject properties' market value. Many sales were clearly motivated by condominium development. Appellant argued subjects have a unique set of negative attributes, including close proximity to a remediated mine tailings pile, a water treatment plant, and an EPA easement that could take away up to 20 feet of the steel building. Color photographs were presented and discussed at hearing to illustrate the negative features and to show their proximity to subjects.

In addition to the information on subjects' sale, Appellant offered sale and listing information from other nearby and distant properties. First presented was a \$687,000 listing for a 2-acre warehouse property in Hayden, Idaho, with three (3) buildings, totaling 17,736 square feet. Appellant described this location as superior and noted the actual sale price would likely be less than the list price. A 4.34 acre lot in Smeltonville, Idaho sold for \$775,000 (\$4.10/sq.ft.)

in August 2006. The level lot was in the Silver Valley Business Center. Thirdly, a fire district purchased 1.68 acres of land in Kellogg for \$480,000 (\$6.56/sq.ft.) in January 2006. This last property was described as prime freeway off-ramp property.

Respondent described the subject properties' physical attributes and the appraisal/trending history leading to the 2007 assessed values. Subjects were last reappraised for the 2005 tax year. The assessor placed the same land value (\$2.65/sq.ft.) on all lots in subjects' subdivision. Two nearby and comparable lots sales during 2004 supported the 2005 assessed land values. Subsequent sales ratio studies showed commercial property in Kellogg was substantially under-assessed.

Subjects along with other similarly situated property were trended for the 2006 tax year and again for 2007. The trend factors were 1.75 and 1.5 respectively. In 2005, there were eight (8) commercial sales used to determine the 2006 trend. In 2006, there were seven (7) sales used to determine the 2007 trend. After the 2007 trend, average commercial property assessment ratios were still below 100% of market value, but were in compliance with state equalization standards. Subjects' assessed land value was \$6.96 per square foot after the two years of trending. It was reported by the Assessor that the office had no comparable sales to specifically support subjects' 2007 land values.

The County regretted the current assessed values were not based on a direct comparison to comparable sales. It was claimed that State Tax Commission (STC) oversight required the substantial trends. Had the County not performed the substantial trending, the STC sitting as the State Board of Equalization would have stepped in and ordered trending; and under state trending there are no taxpayer appeal rights. The Assessor was not highly confident in the parcel-by-parcel accuracy of the trending to determine market value.

The Assessor noted Appellant had not focused its appeal challenge on the improvements, and the County therefore spoke mainly to land value. To illustrate the rapidly escalating market, the Assessor noted the August 2006 land sale in Smelterville at \$775,000 was a resale. The first sale was in 2003 for \$65,000.

Among other material, Respondent presented information on two "land" sales within Kellogg. The sales occurred in the later half of 2006. The lots were .62 and .32 acres in size and demonstrated rates of \$6.13 and \$11.22 per square foot. The .62 acre sale was improved with about .23 acres of asphalt paving.

#### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Market value is the correct legal standard to apply in reviewing the subject assessments. Idaho Code § 63-201(10), et seq. County trending may or may not produce accurate representations of subjects' market value. The market value of land is primarily determined through a consideration of recent, arm's-length sales of comparable land parcels. An income approach to value is sometimes possible for commercial property, but often it is the sales comparison approach that is most reliable or best evidence of value. Neither party presented sufficient information to consider the income approach.

The Appellant and County primarily focused on the market price being paid for land on a per square foot basis. This consideration of sales information is loosely consistent with the sales comparison approach to value. Like the County Assessor, the Board had little confidence the

substantial trends underlying subjects' assessments – and particularly the land component – would produce reliable estimates of probable selling price on the January 1, 2007 assessment date. Idaho Code § 63-205(1). The trend analysis was done on a broad spectrum of commercial properties. Study by specific property type, such as warehouse, was not possible.

Each side presented sales information as an alternative to the trending model. Appellant is noted to have gone to some effort to supplement the relatively limited data in the immediate Kellogg marketplace. The Board found consideration of the sales data from Appellant and Respondent indicated the need to reduce subjects' underlying land value. Much of the data was from locations some distance away from subjects or reflected property otherwise different. Given the scarcity of recent sales data and its limited analysis, it was found the older 2004 sale of subjects should be considered. The available land sales with some consideration made for dates of sale, indicated an overall price range of roughly \$5 to \$11 per square foot. As argued by Appellant, the time adjusted subject sale price should have some offset for the captive nature of the buyer. Finally, considering further differences between the subject properties and the comparable sales, we hold a value rate of \$6.10 per square foot is warranted. This land rate, with some rounding, yields the 2007 assessed values for each parcel indicated below. The \$6.10 rate is less than the rate indicated by the fire district purchase which is consistent with the Board's finding that the fire district property is overall superior to subjects. The Board finds no good evidence to support a change to the improvement values.

	Land	Improvement	Total
RPD09750010010A	\$595,000	\$225,170	\$820,170
RPD097500100200A	\$55,000	\$5,490	\$60,490

Based on the record before it and for the reasons expressed above, the Board will modify

the value decisions of the Shoshone County Board of Equalization.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Shoshone County Board of Equalization concerning the subject parcels be, and the same hereby is, modified to reflect the following values:

	Land	Improvement	Total
RPD09750010010A	\$595,000	\$225,170	\$820,170
RPD097500100200A	\$55,000	\$5,490	\$60,490

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

MAILED JANUARY 31, 2008